

REMARKS

New Claims 33-39 correspond to allowable Claims 2, 3, 4, 8, 14, 21 and 23, respectively, except that they recite that the intermediate layer extends over “substantially” an entire surface of the ground contact layer. Support for this amendment has already been established with respect to cancelled Claim 28. New claims 33-39 are believed to define over Salzman and Marxer since they incorporate the features added by the allowable dependent claims.

Claims 1, 5-7, 9, 11-13, 20, 25 and 26 were again rejected under 35 U.S.C. § 103 as being obvious over Salzman in view of Marxer.

According to the rejection, the portion of the liner 50 of Salzman which lies under a wearer’s foot is a part of a sole “surmounted by” the upper, despite the fact that the liner 50 is secured over the inner surface of the upper section of the boot.

Nonetheless, the Examiner’s attention is respectfully directed to the fact that claim 1 recites that the “sole comprises at least three layers *external to* said upper.” An example of this is seen in figure 2 of the present application wherein the entire sole 2, including the comfort layer 8, is external to the upper 3. In contrast, even if the portion of the liner 50 of Salzman which lies under a wearer’s foot is considered to be a part of a sole surmounted by the upper, it is not *external to* the upper, but is within the unitary hard shell comprised by the upper.

Salzman thus fails to teach this feature of the claims. Since Marxer was only cited to teach shock absorption properties in an internal liner, it could not provide a teaching for

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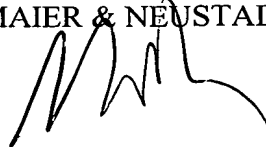
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overcoming the shortcomings of Salzman. The claims thus define over any combination of these references.

Applicants therefore believe that the present application is in a condition for allowance and respectfully solicit an early notice of allowability.

Respectfully submitted,

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